

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE E. BANISTER, JR.,

Defendant.

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8:10-cr-00146-LSC-FG3

ORDER

This matter is before the court on the defendant's motion to continue trial (#42). Defense counsel advises that a continuance is necessary because she plans to be out of the district until the afternoon of the trial date (November 16, 2010), and will not be available to try the case the week of December 14, 2010. The defendant did not file an updated affidavit or declaration regarding speedy trial, as required by NECrimR 12.1(a). The district court's calendar can accommodate an extension to December 21, 2010.

**IT IS ORDERED** that the motion to continue trial (#42) is granted as follows:

1. The jury trial now set for November 16, 2010 is further continued to **December 21, 2010**.

2. In accordance with 18 U.S.C. § 3161(h)(7)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **November 16, 2010 and December 21, 2010**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. Failure to grant a continuance would deny the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

3. Defendant shall file an updated affidavit or declaration regarding speedy trial, in compliance with NECrimR 12.1(a), no later than November 15, 2010.

**DATED November 10, 2010.**

**BY THE COURT:**

s/ F.A. Gossett, III  
United States Magistrate Judge